



39 A.D.3d 120, 828 N.Y.S.2d 813 (Mem), 2007 N.Y. Slip Op. 01300

**\*\*1** In the Matter of Stuart H. Finkelstein, an Attorney, Resignor  
Supreme Court, Appellate Division, Second Department, New York  
2006-05375  
February 13, 2007

CITE TITLE AS: Matter of Finkelstein

#### **SUMMARY**

Resignation tendered pursuant to 22 NYCRR 691.9 by Stuart H. Finkelstein. Resignor was admitted to the bar on December 13, 1989 at a term of the Appellate Division of the Supreme Court in the Second Judicial Department.

#### **HEADNOTE**

Attorney and Client  
Disciplinary Proceedings

Resignor attorney, who was aware that he was the subject of an investigation by the Grievance Committee for the Second and Eleventh Judicial Districts into allegations that he, among other things, submitted false and misleading answers and documents to the Grievance Committee that were altered in connection with two pending complaints of professional misconduct, and who voluntarily submitted his resignation from the practice of law, was disbarred (22 NYCRR 691.9).

#### **RESEARCH REFERENCES**

Am Jur 2d, Attorneys at Law §§ 32, 38, 50, 55, 114.

Carmody-Wait 2d, Officers of Court §§ 3:239, 3:262, 3:273, 3:274, 3:277, 3:287.

22 NYCRR 691.9.

NY Jur 2d, Attorneys at Law §§ 313, 373, 391, 393, 400, 401.

#### **ANNOTATION REFERENCE**

Propriety of attorney's resignation from bar in light of pending or potential disciplinary action. 54 ALR4th 264.

#### **FIND SIMILAR CASES ON WESTLAW**

Database: NY-ORCS

Query: disbarred & resignation & false /s mislead! /s committee

### APPEARANCES OF COUNSEL

*Flamhaft Levy Kamins Hirsch & Rendeiro, LLP*, New York City (*Barry Kamins* of counsel), for resignor.  
*Diana Maxfield Kearsse*, Brooklyn (*Diana J. Szochet* of counsel), for Grievance Committee for the Second and Eleventh Judicial Districts.

### \*121 OPINION OF THE COURT

Per Curiam.

Stuart H. Finkelstein has submitted an affidavit dated May 18, 2006, wherein he tenders his resignation as an attorney and counselor-at-law (*see* 22 NYCRR 691.9). Mr. Finkelstein was admitted to the bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on December 13, 1989.

Mr. Finkelstein avers that his resignation is freely and voluntarily rendered, that he is not being subjected to coercion or duress, and that he is fully aware of the implications of its submission, including being barred from seeking reinstatement for at least seven years. Mr. Finkelstein is aware that he is the subject of an investigation by the Grievance Committee for the Second and Eleventh Judicial Districts into allegations that he, *inter alia*, submitted false and misleading answers and documents to the Grievance Committee that were altered in connection with two pending complaints of professional misconduct.

Mr. Finkelstein's resignation is submitted subject to any application which could be made by the Grievance Committee for the Second and Eleventh Judicial Districts to direct that he \*\*2 make restitution and reimburse the New York Lawyers' Fund for Client Protection, pursuant to Judiciary Law § 90 (6-a). He acknowledges the continuing jurisdiction of the Court to make such an order and is aware that any order issued pursuant to that section could be entered as a civil judgment against him. Mr. Finkelstein specifically waives the opportunity afforded him by Judiciary Law § 90 (6-a) (f) to be heard in opposition thereto.

The Grievance Committee urges acceptance of the proffered resignation.

Inasmuch as Mr. Finkelstein's resignation conforms with the requirements of 22 NYCRR 691.9, it is accepted, and effective immediately, Mr. Finkelstein is disbarred and his name is stricken from the roll of attorneys and counselors-at-law.

Prudenti, P.J., Miller, Schmidt, Florio and Skelos, JJ., concur.

Ordered that pursuant to Judiciary Law § 90, effective immediately, Stuart H. Finkelstein is disbarred, and his name is stricken from the roll of attorneys and counselors-at-law; and it is further,

Ordered that Stuart H. Finkelstein shall promptly comply with this Court's rules governing the conduct of disbarred, \*122 suspended, and resigned attorneys (*see* 22 NYCRR 691.10); and it is further,

Ordered that pursuant to Judiciary Law § 90, effective immediately, Stuart H. Finkelstein is commanded to desist and refrain from (1) practicing law in any form, either as principal, agent, clerk, or employee of another, (2) appearing as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority, (3) giving to another an opinion as to the law or its application or any advice in relation thereto, and (4) holding himself out in any way as an attorney and counselor-at-law; and it is further,

Ordered that if the resignor, Stuart H. Finkelstein, has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency and the resignor shall certify to the same in his affidavit of compliance pursuant to 22 NYCRR 691.10 (f).

Copr. (C) 2020, Secretary of State, State of New York

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